

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

EDWARD SMITH,

Plaintiff(s)

vs.

ANTHONY BRIGANO, Warden

Defendant(s)

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Case Number: 1:01cv814-SJD

District Judge Susan J. Dlott

ORDER

This matter is before the Court for consideration of the plaintiff's Motion for Reconsideration (Doc. 33). Plaintiff seeks a reconsideration of the conclusions reached by this Court in its Order of September 2, 2004 adopting the report and recommendations.

The Court has carefully reviewed the plaintiff's motion and the authorities cited therein. As noted in *Virgin Atlantic Airways, Ltd. v. National Mediation Bd.*, 956 F.2d 1245, 1255 (2d Cir. 1992) quoting 18 C. Wright, A. Miller, E. Cooper, Federal Practice and Procedure Sec 4478 at 790, "[t]he major grounds for justifying reconsideration are 'an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice.'" In this case, there is no intervening change of controlling law. The plaintiff has submitted no new evidence. The Court is not aware of any need to correct a clear error or to prevent manifest injustice. Instead, the plaintiff has simply reargued the issues upon which he was not successful before this Court. The proper forum for such additional argument is in the Court of Appeals.

For these reasons, plaintiff's Motion for Reconsideration is DENIED.

IT IS SO ORDERED.

s/Susan J. Dlott
Susan J. Dlott
United States District Judge